

REPORT TO SUBCOUNCIL 20

- 1 ITEM NUMBER
2 SUBJECT **20SUB14/08/2020**

PROPOSED LEASE OF PUBLIC STREET AND CITY LAND, ERF 48348, AND PORTIONS OF ERVEN 48344, 48486, 48560 AND 48570 CAPE TOWN, PEACH LANE, NEWLANDS FOR GARDENING PURPOSES: ANN SHONA PLAYFAIR STURGEON, FRANK ROBERT MILLENAAR AND ROBYN PLAYFAIR STURGEON MILLENAAR

- 2 ONDERWERP

VOORGESTELDE VERHURING VAN OPENBARE STRAAT EN STADSGROND, ERF 48348, EN GEDEELTES VAN ERWE 48344, 48486, 48560 EN 48570 KAAPSTAD, PEACHLAAN, NUWELAND, VIR TUINMAAKDOELEINDES: ANN SHONA PLAYFAIR STURGEON, FRANK ROBERT MILLENAAR EN ROBYN PLAYFAIR STURGEON MILLENAAR

- 2 ISIHLOKO

ISIPHAKAMISO SOKUQESHISWA KWESITALATO SOLUNTU NOMHLABA WESIXEKO, ISIZA- 48348, NEZIQEPHU ZEZIZA-48344, 48486, 48560 NO-48570 EZISEKAPA, PEACH LANE, NEWLANDS, KULUNGISELELWA IMIBANDELA YEZASEGADINI: KU-ANN SHONA PLAYFAIR STURGEON, FRANK ROBERT MILLENAAR NAKU-ROBYN PLAYFAIR STURGEON MILLENAAR

(M0031)

PTMS NO: 130000730

File Ref No: CT14/3/6/1/2/757/A00

(Category 4)

- 3 DELEGATED AUTHORITY

The report is for comment by subcouncil to the competent authority in terms of Part 24, Delegation 10(1).

"To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary."

- In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

"To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and > 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

- Final decision lies with Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	Proposed lease of Public Street and City Land for Gardening Purposes		
Site extent	±386m ² approximately		
Submission date	17 December 2008		
Current zoning	Public Street, Public Open Space and Community 1		
Current usage	Gardening Purposes		
Proposed usage	Gardening Purposes		
WARD CLLR	NOTICE DATE	WARD	
Ian Iversen	7 June 2019	59	
Internal circulation date	20 May 2019		
Internal department comments	Branch comments received and no objections were received.		
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on "7 June 2019". Objections were received.		
Viable	Yes	No	X

	The subject property is regarded as non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process			
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority prior to 5 January 2017			
Factors motivating recommendation:	<ul style="list-style-type: none"> • The leasing of the land will relieve Council of the maintenance burden. • A market related rental income will be generated. • Better utilization of City land. 			
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town			
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City		
	Programme 1.1(g)	Leveraging the City's assets		

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of Public Street and City Land, being Erf 48348, and portions of Erven 48344, 48486, 48560 and 48570 Cape Town, Peach Lane, Newlands, shown hatched and lettered ABC middle of river DEFGH on the attached sketch SZC 1372v1 marked annexure A, in extent approximately ±386m², to Ann Shona Playfair Sturgeon, Frank Robert Millenaar and Robyn Playfair Sturgeon Millenaar, owners of Erf 48347 or their successors in title, be approved subject to inter alia the following conditions:

- a) A tariff rental of R2 523.00 per annum including VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The lease will endure for a period of ten years;
- c) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- d) The property be used for gardening purposes only;

- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property.
- h) The objections not be upheld.

5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van openbare straat en Stadgrond, naamlik erf 48348, en gedeeltes van erwe 48344, 48486, 48560 en 48570 Kaapstad, Peachlaan, Nuweland, gearseer en met die letters ABC middel van die rivier DEFGH op die aangehegte skets SZC 1372v1 (gemerk bylae A) aangetoon, ongeveer ± 386 m² groot, aan Ann Shona Playfair Sturgeon, Frank Robert Millenaar en Robyn Playfair Sturgeon Millenaar, eienaars van erf 48347 of hul regsopvolgers, goedgekeur word onderworpe aan onder andere die volgende voorwaardes, dat:

- a) 'n Tariefhuurbedrag van R2 523.00 per jaar, BTW bereken teen die koers van toepassing ten tye van die transaksie ingesluit, betaalbaar is. Eiendomsbelasting nie van toepassing nie;
- b) Die huurooreenkoms vir 'n tydperk van tien jaar sal duur;
- c) Die huurbedrag jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir tuinmaakdoeleindes gebruik word;
- e) Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaalbaar sal wees vir enige verbeteringe aan die eiendom nie.
- h) Die besware nie gehandhaaf word nie.

5 IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ueshiso lweSitalato soLuntu nomhlba weSixeko osisiza-48348, neziqephu zeziza-48344, 48486, 48560 no-48570 eziseKapa, Peach Lane, e-Newlands, ezibonakaliswe ngoyilo nangoonobumba abakhulu u- ABC embindini womlambo u-DEFGH kumzobo oqhotyoshelweyo ongu-SZC 1372v1 opahwulwe isihlomelo-A, esibukhulu obumalunga nama- $\pm 386 \text{ m}^2$, ku-Ann Shona Playfair Sturgeon, Frank Robert Millenaar naku-Robyn Playfair Sturgeon Millenaar, abanini besiza-48347 okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo:

- a) Makuhlululwe ixabiso lerenti elili-R2 523.00 ngonyaka (ngaphandle kweRhafu-ntengo) ngexabiso elibalwe ngexabiso elijoliswe kwixesha elo lonaniselwano. IiRhafu zokuhlala azihlawulwa;
- b) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi;
- c) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokwesakheko samaxabiso serenti njengoko siphunyezwe liBhunga;
- d) Ipropati le iyakuthi isetyenziselwe imibandela yezasegadini kuphela;
- e) Ngokuxhomekeke kweminye imiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho;
- g) Akukho mbuyekezo iyakuthi yenziwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati.
- h) Izichaso kufuneka zingaxhaswa

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

The owners of Erf 48347 Cape Town, 10 Peach Lane, Newlands, together with the owners of erven 48343, 156850 and 48349, Cape Town have applied to lease the property for gardening purposes. The applicant has been leasing the property since before 1990, but the agreement has since lapsed and continued on a tacit relocation basis to perpetuate billing. The relevant branches were consulted and they confirmed that the subject property is not required for municipal purposes. The subject property is not considered viable as it is considered only to be of use to the adjoining landowners being the applicants.

The proposal has been circulated to the relevant Council branches for comments and no objections were received. The proposal has been circulated to the relevant Council branches for comments and no objections were received. The proposed lease of the subject property was duly advertised in terms of the stipulations of the Management of Certain of the City of Cape Town's Immovable Property Policy in two local newspapers on 7 June 2019, inviting the public to lodge written comments. A notice in this regard was also served on the relevant ward councilor and sub-council, the surrounding neighbours and the ratepayer's association. Objections were received and addressed as per paragraph 6.1.1 below.

This is non-viable City land. During the currency of the lease period the agreement of lease will contain a clause that in the event that Council does require the land, a two months' cancellation period will be applied.

6.1.1 SUMMARY OF OBJECTIONS RECEIVED AGAINST PROPOSAL:

a) Penny Stekhoven owner of 5 Ohlsson Way, Newlands submitted an objection (see Annexure B) which can be summarised as follows:

- The water flows through a blue pipe onto the land in question. It would be totally unacceptable for Council to make the water from the Kildare Spring only available for use by one family.
- Erf 48670 has been graded by Council as a Category 3A heritage site and needs to be protected and maintained in a way which shows regard for its historical significance. Also of importance is for Council to know that applicants will follow the laws of the land which relate to rivers and wetlands. This is evidenced by the fact that their own river bank is degraded and infested with invasive aliens.
- The objection relating to the suitability to renew the leases also applies to the applicants for the rest of Erf 48670. Not one of

these applicants show any respect for the historical importance of the land or the ecologically sensitive nature of the river and its inter-relationship with the Liesbeeck River and none have made an attempt to comply with the laws relating to aliens or rivers and wetlands.

- Not only do the applicants neglect the river bank all have fences running along the top of their banks and most have no view of the river.
- The fence installed due to a breach in security was done illegally we believe we have the right to remove the fence – and in fact should do so.

b) Ms Lauren Muller, Mr Riyaz Rawoot and Professor Steven Robins friends of Newlands Spring (see **Annexure C**) which can be summarised as follows:

- The Kildare Spring is a public resource that should be accessible and shared by all residents, including those at the nearby Cresswell House, who have made use essential of this water.
- The field on which the Kildare Spring is located, Erven 48570, is also the last piece of the original undeveloped public land that made up the former Kildare rural and village community before the forced removals of the 1960s. It, and the spring upon it, is of great public significance to the past and present community.
- We advise you therefore to consider the broader implications of a hasty, undemocratic transfer process.

c) Summary of applicant's response to objections (see **Annexure E**):

- We have no intention of accessing this water, which is a crucial part of the river system and, ultimately, as a catchment to the Liesbeeck River. In any event, all water rights remain the property of the government of South Africa.
- While this remains a sensitive area with regard to water collection, it is hard to imagine that Springs Way could be reopened as an access point to the public. It placed huge strain on the infrastructure and on the neighbours (particularly the resident of Creswell House) in 2018. The water point has been very successfully relocated to Main Road where it can be properly controlled.
- Springs Way ends directly opposite our property and there have been incidents in the past. Since our property is to the middle of the river, it is difficult to fence it off. The land owned by Cresswell

house on springs way is not fence and so too adds to the security risk on the river.

- The aim of the application is to have some control over what foliage is removed unlawfully and add indigenous plants to boost the wild life in the area.

d) Property Management's view on the objections received:

Property Management has considered the concerns and is of the view that the comments raised by the objectors do not warrant the refusal of this application. Mr and Mrs Stekhoven previously applied for the same property, but their application was denied as they were not the abutting property owners. Property Management supports a recommendation to lease the subject property to the applicant for the following reasons:

- The lease agreement will contain a clause which obligates the lessee to maintain the leased area and make sure that the leased area is used for the intended purpose.
- The applicant has been leasing the property for over 20 years and has relieved Council of the maintain burden.
- Also, the internal service branches all supports the proposed leases to the abutting owners.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- a) No further structures permitted in the lease area, including fences or walls.
- b) Access must be granted to council officials to undertake the routine inspections and maintenance as and when required.
- c) No alterations, adding or removing of material and ground levels are allowed in the lease area, unless approved by the City as part of a river rehabilitation process.
- d) Planting and removal of alien invasive species to be undertaken after consultation with the Environmental Resource Management office.
- e) The area is to be managed so as not to cause any unnecessary erosion of the river embankment.
- f) No activity may take place without written approval of the City.

- g) Once a development is proposed, a formal application must be made in this regard to the Reticulation Regional Operation Manager.
- h) The applicant/purchaser will be liable for all costs relating to the water and sewer connection points.
- i) Development contributions will be payable, to the quantified by the Reticulation District Head.
- j) The City of Cape Town has the right to construct and/ or erect and lay such poles, stays, cables, wires or appurtenances aforesaid. This includes the right to bring machinery onto the property and to carry out the excavations.
- k) The City of Cape Town has the right for any employee or servant or contractor of the City of Cape Town to enter and be upon the property at any time in the exercise of the aforesaid rights.
- l) No building, containers or structure shall be erected within 3m of the electrical services.
- m) No excavation or filling shall be carried out within the leased area without the prior written consent of the director: Electrical Services via the wayleave approval/ process. All excavations within the 3m of the electrical services must be carried out under the direction of a representative of this Department. In this regard, please contact this Departments Drawing Office Manager Mr D Smith on 021 444 2146 or davidb.smith@capetown.gov.za.
- n) No stakes, pegs or pins shall be driven into the ground within 1m of any part of the electricity services.
- o) No plant or material shall be stored within 1m of any part of the electricity services.
- p) No mechanical plant may be used within 3m of medium voltage cable or 5m of high voltage cable.
- q) The lessee shall be responsible at all times for the maintenance and good order of the conditions.
- r) The lease may be suspended at any time should the applicant not comply with the conditions.
- s) On termination of the lease, the entire leased area must be reinstated at the lessee's expense to a condition acceptable to this department.

- t) The portions of erven 48570 and 48560 remain without fencing, i.e. **no fencing** is to be allowed.
- u) Fences along properties should be maintained.
- v) No new structures or encroachment into the riparian zone is permitted and rehabilitation activities to restore the riverine corridor/riparian zone must be done in consultation with EMS and requires written approval of the City.

6.3 VALUATION

The application category fits within the tariff structure of the City approved on 27 May 2020;

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.

6.4.2 Chapter C of Council's policy entitled the Management of Certain of the City of Cape Town's Immovable Property (approved by Council 26 August 2010, C 54/08/10), permits the leasing of immovable property.

6.5 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person whose tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per

paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

Applicant has complied. See Tax Clearance Certificate attached hereto as **Annexure E**.

6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that the debt profile is not in arrears.

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R2 523.00 inclusive of VAT per annum as calculated in accordance with the tariff structure.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger

on "7 June 2019. Closing dates for objections were "02 January 2020". Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. Objections were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No objections or comments were received.

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

6.10 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?


No

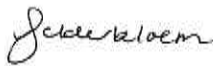
Yes

ANNEXURES

- Annexure A: Sketch Plan SZC 1372v1
- Annexure B: Objection – Penny Stekhoven
- Annexure C: Objection – Ms Lauren Muller, Mr Riyaz Rawoot and Professor Steven Robins friends of Newlands Spring
- Annexure D: Summary of applicant's response to objections
- Annexure E: Tax Clearance Certificate

FOR FURTHER DETAILS CONTACT:

NAME		
	MANDY TAYLOR	
CONTACT NUMBERS	(021) 400 6098	
E-MAIL ADDRESS	MANDY.TAYLOR@CAPETOWN.GOV.ZA	
DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT	
FILE REF NO	CT14/3/6/1/2/757/A00	
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Rachel Schnackenberg	Digitally signed by Rachel Schnackenberg Date: 2020.07.22 07:49:44 +02'00'



Digitally signed by Ruby Gelderbloem
Date: 2020.07.22 16:54:58 +02'00'

Comment:

DIRECTOR : PROPERTY MANAGEMENT IN HER CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT NOMINEE

NAME RUBY GELDERBLOEM

DATE _____

Joan-Mari Holt

Digitally signed by Joan-Mari Holt
Date: 2020.07.28 11:40:08 +02'00'

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

NON-COMPLIANT

LEGAL COMPLIANCE

NAME _____

TEL _____

DATE _____

Comment:

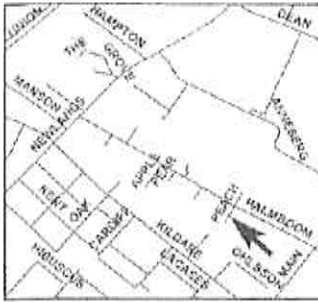
Certified as legally compliant based on the contents of the report.

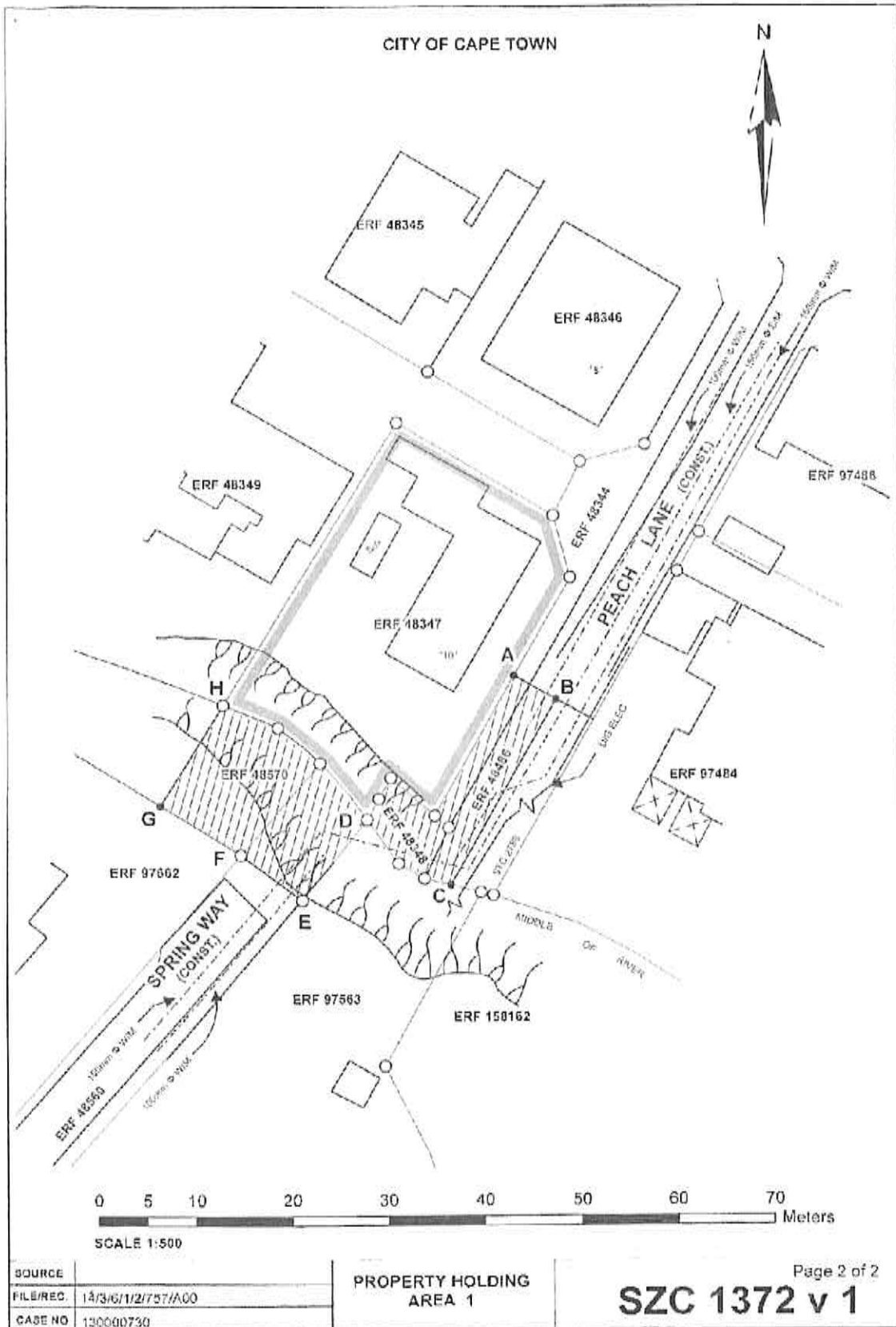

RICHARD WHITE
SUBCOUNCIL MANAGER

Tel No. 021 444 8112

DATE: 17 August 2020

ANNEXURE A

 <p>LOCALITY SKETCH</p>	<p>CITY OF CAPE TOWN</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">DIMENSIONS IN METRES</th> </tr> <tr> <td>AB ±</td> <td>5.0</td> </tr> <tr> <td>BC ±</td> <td>22.5</td> </tr> <tr> <td>DE ±</td> <td>10.9</td> </tr> <tr> <td>EF ±</td> <td>8.0</td> </tr> <tr> <td>FG ±</td> <td>8.9</td> </tr> <tr> <td>GH ±</td> <td>12.5</td> </tr> </table>	DIMENSIONS IN METRES		AB ±	5.0	BC ±	22.5	DE ±	10.9	EF ±	8.0	FG ±	8.9	GH ±	12.5		
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<p>LEASE OF CITY LAND - PEACH LANE - NEWLANDS</p> <p>The figure ABC middle of river DEFGH represents City Land (Erf 48348, and portions of Erven 48344, 48485, 48560 and 48570 Cape Town) in extent approximately 388 square metres available for lease to</p> <p style="text-align: center;">ANN SHONA PLAYFAIR STURGEON FRANK ROBERT MILLENAAR AND ROBYN PLAYFAIR STURGEON MILLENAAR</p> <p>Property of above bordered grey and zoned: Single Dwelling (D/T 23079 and D/T 32421 dated 2011/06/22)</p> <p>City Land Zoned: Public Street, Public Open Space and Community 1</p> <p>Note: Erf 48344 Cape Town is registered in the name of Parklands Inv (Pty) Ltd by D/T 6465 dated 1962/06/25 and vests in the City of Cape Town as Public Street. Erf 48485 Cape Town is registered in the name of Jacob Pleter Laurens Cloete by D/T 31 dated 1828/07/14 and vests in the City of Cape Town as Public Street. Erf 48570 Cape Town is registered in the name of the Municipality of Cape Town by D/T 14234 dated 1954/09/01. Erf 48348 Cape Town is registered in the name of South African Breweries Ltd by D/T 52264 dated 2001/07/08 and vests in the City of Cape Town as Public Open Space</p>																		
<p>WARD 59 SUBCOUNCIL 20</p>		<p>SUPERSEDES SZC 1372</p>																
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">REFER TO</td> <td>ROLL 48; M 4019 SZ 4281/2</td> </tr> <tr> <td>CASE NO.</td> <td>130000730</td> </tr> <tr> <td>PROP REF</td> <td></td> </tr> <tr> <td>FILE/REC.</td> <td>14/3/8/1/2/757/A00</td> </tr> <tr> <td>MEMO</td> <td></td> </tr> </table>	REFER TO	ROLL 48; M 4019 SZ 4281/2	CASE NO.	130000730	PROP REF		FILE/REC.	14/3/8/1/2/757/A00	MEMO		<p>PROPERTY HOLDING AREA 1</p>	<p style="text-align: right;">Page 1 of 2</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">SURVEYOR</td> <td>T VAN SITTERT</td> </tr> <tr> <td>GIS OPERATOR</td> <td>T VAN SITTERT (2018/04/03)</td> </tr> <tr> <td>CHECKED</td> <td><i>Johi G... 2019/1/15</i></td> </tr> </table> <p style="font-size: 24pt; font-weight: bold; text-align: center;">SZC 1372 v 1</p>	SURVEYOR	T VAN SITTERT	GIS OPERATOR	T VAN SITTERT (2018/04/03)	CHECKED	<i>Johi G... 2019/1/15</i>
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GIS OPERATOR	T VAN SITTERT (2018/04/03)																	
CHECKED	<i>Johi G... 2019/1/15</i>																	



ANNEXURE B

Mandy Taylor

From: Penny Stekhoven <pstekhoven@wof.co.za>
Sent: Thursday, 10 October 2019 07:57
To: Mandy Taylor
Cc: Andy Greenwood; Crispin Barrett; Harriet Clift; Abdulla Parker; Sarah Rushmere
Subject: FW: application to renew lease by Sturgeon/Millenaar family
Attachments: 20001942_Revised Letter_Dr Stekhoven (2).pdf

Dear Ms Taylor

Application to renew lease of portion of public street and city land, erf 48348 and portions of erven 48344, 48486, 48560 and 48570 Cape Town, Peach Lane, Newlands for Gardening purposes: Anna Shona Playfair Sturgeon, Frank Robert Millenaar and Robyn Playfair Sturgeon Millenaar

Your letter dated 09 September 2019 only arrived on 01 October 2019 so I am resorting to responding via email in order that it reaches you by Thursday 10th October 2019.

We object to the lease of erf 48670 because the Kildare Spring and storm water outlets drain onto the land. The removal permanently of the water available for use by the residents of Cape Town was controversial. The previous outlet was used by the residents of Cape Town for at least 100 years and is of religious significance to the Muslim community. Now the water flows through a blue pipe onto the land in question. It would be totally unacceptable for Council to make the water from the Kildare Spring only available for use by one family – Council would simply not be able to monitor whether the water was being diverted or used for financial gain. And who would then be responsible for maintaining the outlets which are not in good condition? It is our opinion that in fact due to the controversy surrounding the water emanating from the Kildare Spring and its historical importance to the people of Cape Town more consultation with interested parties should take place before it forms part of a 10 year lease.

Erf 48670 has been graded by Council as a Category 3A heritage site and needs to be protected and maintained in a way which shows regard for its historical significance. Although the process to declare Newlands Village a HPOZ is currently underway and until then the historical importance of the site does not need to be observed nonetheless Council should take this into consideration when deciding whether applicants are suitable to lease the land. Also of importance is for Council to know that applicants will follow the laws of the land which relate to rivers and wetlands. The applicants show no evidence that they will observe either the historical importance of the land or follow the laws relating to rivers and wetlands thus we strongly object to their application to lease Erf 48670. This is evidenced by the fact that their own river bank is degraded and infested with invasive aliens. While some attempt has been made in the past to cut back the vegetation nonetheless invasive aliens, which are required to be removed by law, are never removed permanently so grow back within a few months. Before Council agree to lease the land the applicants surely need to demonstrate their suitability by showing regard for the historical and ecological importance of the Council land and that they will follow the various laws applicable to rivers and waterways.

The objection relating to the suitability to renew the leases also applies to the applicants for the rest of Erf 48670. Not one of these applicants show any respect for the historical importance of the land or the ecologically sensitive nature of the river and its inter-relationship with the Liesbeeck River and none have made an attempt to comply with the laws relating to aliens or rivers and wetlands. Their river banks are heavily infested with invasive aliens. Even before the leases expired some of the applicants made no attempt to maintain Council – or their own – river banks. During this time residents of Cresswell House approached some of the applicants and asked them to clear their lands but nothing was done. In desperation at one stage some of the residents of Cresswell House (erf 97662 bordering erf 48570) approached Council because overgrown trees blocked their light and the trees were infested with rats, at which point in time the land was partially cleared. Now Council want to re-lease the land to the same people – to enable them to continue to do nothing. And this is likely to happen based on remarks passed by these applicants over the years which include: lack of funds, lack of interest, no view of the river, and existing vegetation must be left to provide privacy and screen Cresswell House. This leads to the question: have any of the

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actual residents (not just head office) at Cresswell House ever been consulted about their views and interactions with the applicants.

Not only do the applicants neglect the river bank all have fences running along the top of their banks and most have no view of the river. In the case of Jack Curry he has also erected an electric fence. Additionally Jack Curry, has for many, many years tipped his garden and builders waste over the river bank and much of it lands up in the river and floats downstream. Of note here is that we have made numerous complaints to Council over the years – and to Province in terms of NEMA, but no action is taken. Now, in fact, we have been warned that Curry's gabions are in danger of collapsing into the river because of the weight of the rubbish. When this happens it will cause a huge amount of damage downstream and eventually most is likely to end up in the Liesbeeck into which the Kildare Stream drains. In past years both the Millenaars and Curry have also allowed trees/large branches to fall into the river and allowed them to float downstream. On several occasions we have had to organise outside contractors to come in and clear the blockage caused by such debris. This begs the question: how can Council even consider leasing their land to owners who disregard the laws of the land and have no interest in maintaining their own properties.

Security and Fencing of Springs Way: Several years ago an intruder entered the Millenaars' property having crossed the river after which was accessed by breaching the fence in Springs Way. In 2016, before this incident, we were sent the attached letter. We had been asked to lease the entire river frontage owned by council. This because we had taken it upon ourselves to maintain the portion in front of the Sturgeon/Millenaars for over 20 years because although historically the Sturgeon (then Jackson) family had the lease on the land they had failed to maintain it. It was filled with invasive aliens, the bank was eroding and the fence had collapsed and squatters were living on the bank. The residents of Cresswell House had repeatedly asked Council and the Sturgeon family to secure and maintain the land to no avail. In desperation they approached us so we installed a fence, shored up the bank, cleared the aliens and replanted indigenous trees. When the security breach occurred and on the basis of the letter from Council we installed a security fence from the point E on the diagram to about point G. We have always been aware that what we did was illegal. Ian Iversen, our Councillor, has always been aware of our actions and in fact supported a lease in our favour. We were happy to take on the lease in order to clear the river of aliens and replant with indigenous plants and trees – not for ourselves but as a service to the community and out of concern for the ongoing degradation of the Council portion of the river bank. We stopped when the Lorenz family threatened us with court action if we continued before the lease was in place. This is, in fact, why only the portion nearest Springs Way is in reasonable condition. Because the installation of the fence was illegal we believe we have the right to remove the fence – and in fact should do so. But we are aware that by its removal it could cause security issues so we are prepared to leave it in place but humbly request that Council ask the above residents – and those further upstream applying to lease Council land – to make a contribution towards our costs (approx. R35 000) if their applications to lease the land are successful. An invoice is available should it be needed.

Because I have attached the letter from Council saying they had no objection to a lease of the land in our favour I should like to clarify that we were eventually told we were not eligible because we are not adjacent to the land in question so our application was turned down.

Yours sincerely
Penny Stekhoven

Dr Penny Stekhoven
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Newlands 7700
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Email: pstekhoven@wol.co.za

ANNEXURE C

City of Cape Town
Property Management
10 October 2019

Dear Ms Taylor

RE: Urgent objection to the private lease of City Land on Springs Way - Erven 48570 & 48560.

It has just come to our attention that the City has agreed to the private 10-year lease of this public land on Springs Way (Erven 48570 & 48560), which contains the source and piped outlet of the Kildare Spring. It would therefore appear that the City has been over-hasty in this property lease approval process without taking due cognisance of the recent history and meaning of this important heritage location. Furthermore, the Kildare Spring is a public resource that should be accessible and shared by all residents, including those at the nearby Cresswell House, who have made use essential of this water.

You must be aware of the controversy and heated public debate regarding the closure of the Kildare Spring in 2018, and the cultural, religious and political sensitivities of these sites. To reiterate these sites are, and were until their recent closure by the City, important heritage and community water-collection sites. It is therefore highly problematic that the City has sought to undertake, without adequate broader community consultation, the leasing to these important sites. In short, it has been erroneously managed as a private property transaction, rather than a matter of broader, city-wide import.

Due to the limited time afforded to interested parties to communicate and debate this transfer, it has been impossible for us to interact and communicate adequately with the City or the general public on this matter. For instance, the elderly at Cresswell House shall be directly impacted by this decision, and their access and use of this public land is a very important consideration. The field on which the Kildare Spring is located, Erven 48570, is also the last piece of the original undeveloped public land that made up the former Kildare rural and village community before the forced removals of the 1960s. It, and the spring upon it, is of great public significance to the past and present community.

We should therefore like to make it known that objections shall be made to the City regarding the lease of these two erven, and that we intend to take the process further with City Heritage consultants (i.e. Adelaide Combrink), Bulk Water and Sanitation (i.e. Barry Wood & Michael Killick) and Environmental services (i.e. Joy Garman). There are also a number of community actors who shall be unhappy about this decision. We advise you therefore to consider the broader implications of a hasty, undemocratic transfer process.

We therefore respectfully request that you apply your minds to the implications of this leasing process. We strongly advise that the City put a stay on any further decision until all the relevant actors have been consulted. Given that this public land is historically important in heritage terms, decisions about its future should surely be made with proper due process. It is also important for there to be further consultation on potential uses of these sites in the public interest (e.g. as a memorial park with spring access and/or garden for Cresswell House residents).

Thank you for taking these issues into consideration and we look forward to hearing your plans for a broader, more inclusive consultation process. I am sure you will agree that the City can be spared a great deal of extra work and poor publicity on this matter.

Yours Faithfully

Ms Lauren Muller, Mr Riyaz Rawoot and Prof. Steven Robins (Friends of Newlands Spring)

ANNEXURE D

Mandy Taylor

From: Robyn Millenaar <robyn@millenaararch.co.za>
Sent: Monday, 24 February 2020 08:55
To: Mandy Taylor; logancpt@lafrika.com; Fusing Services
Subject: APPLICATION TO LEASE OF PORTION OF PUBLIC OPEN SPACE AND PUBLIC STREET AND CITY LAND, PORTIONS OF ERVEN 48344, 48486, 48560 AND 48570 CAPE TOWN, PEACH LANE, NEWLANDS FOR GARDENING PURPOSES

Dear Mandy

Many thanks for sending me the comments to the application for the lease of the land opposite our property.

The primary concern of these two objection letters seem to be around the spring water overflow that is discharged into the Canon River and the sensitivity of the site.

We have no intention of accessing this water, which is a crucial part of the river system and, ultimately, as a catchment to the Liesbeeck River. In any event, all water rights remain the property of the government of South Africa.

While this remains a sensitive area with regard to water collection, it is hard to imagine that Springs Way could be reopened as an access point to the public. It placed huge strain on the infrastructure and on the neighbours (particularly the resident of Creswell House) in 2018. The water point has been very successfully relocated to Main Road where it can be properly controlled.

Our reason for seeking this lease is as follows:

- **Security** - Springs Way ends directly opposite our property and there have been incidents in the past. Since our property is to the middle of the river, it is difficult to fence it off. The land owned by Creswell house on springs way is not fenced and so too adds to the security risk on the river.
- **Visual privacy** - Since Springs Way is at about the same contour level as 10 peach lane any one can look directly onto the property. Because springs way is a cul de sac people tend to make their way to the end of the road and survey the property. It is impossible to build a wall and the only recourse is to achieve privacy by the means of vegetation and maintenance of existing plants. In the past two large oak trees were unlawfully removed which left the property particularly vulnerable. Hence the aim of the application is to have some control over what foliage is removed unlawfully and add indigenous plants to boost the wild life in the area.

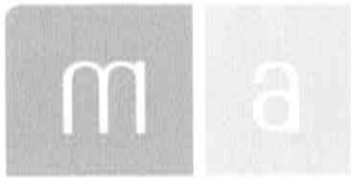
The lease is specifically granted for "gardening purposes" and could, presumably, be rescinded if the Council needed the land for any reason.

Our intention is to do exactly this – plant and maintain the area. We have been awaiting clarification on this matter before investing time and money in planting this space. Naturally any planting that could affect our neighbours (particularly at Creswell House) would be discussed with them.

I hope this addresses the concerns that the objectors have made.

Regards
Robyn

ROBYN MILLENAAR



millenaar architects

10 Peach Lane Newlands 7700
Email robyn@millenaararch.co.za
Phone: 082 534 0991

From: Mandy Taylor <Mandy.Taylor@capetown.gov.za>

Sent: Tuesday, 18 February 2020 10:16

To: logancpt@lafrika.com; Fusing Services <fusing@kingsley.co.za>; Robyn Millenaar <robyn@millenaararch.co.za>

Subject: APPLICATION TO LEASE OF PORTION OF PUBLIC OPEN SPACE AND PUBLIC STREET AND CITY LAND, PORTIONS OF ERVEN 48344, 48485, 48560 AND 48570 CAPE TOWN, PEACH LANE, NEWLANDS FOR GARDENING PURPOSES

Good day,

These are the objections received from the public participation process for your application

Please read through it and you will be required to respond within 15 days, as these objections and your comments need to be placed on record, as well as for SubCouncil purposes.

PS: Robyn, I have emailed you the previous objection, please can you respond together with this objection?

Should you require any further information, please do not hesitate to inform me.

Kind Regards,

Mandy Taylor

Cape Town Region - Property Management Department
Economic Opportunities and Assets

3rd Floor, Media City Building, Cnr Heerengracht and Hertzog Boulevard, Foreshore, Cape Town

Tel: 021 400 6551 | **Fax:** 021 400 425 3605 | **Cell:** 073 213 7848 | **Email:**

mandy.taylor@capetown.gov.za | **Web:** www.capetown.gov.za

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CITY OF CAPE TOWN
ISIXEKO SASEKAPA
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ANNEXURE E



CITY OF CAPE TOWN
 12 HERTZOG BOULEVARD
 CAPE TOWN CENTRAL
 CAPE TOWN
 8001

TAX COMPLIANCE STATUS
Verification

Enquiries should be addressed to SARS:

Contact Detail

SARS Contact Centre Tel: 0800 00 SARS (7277)
 Alberton SARS online: www.sars.gov.za
 1528

Details

Taxpayer Reference Number: 9334158185

Always quote this reference number when contacting SARS

Issue Date: 2020/07/16

Dear City Of Cape Town

TAX COMPLIANCE STATUS VERIFICATION

With reference to your tax compliance status (TCS) verification request, the South African Revenue Service (SARS) confirms the following:

TCS Verification	
Taxpayer Name	Robyn Milenaar
Trading Name	MILLENAAR ARCHITECTS
Tax Reference Number(s)	3047157140
PN	6024MF292
Date of Verification	2020/07/16
Tax Compliance Status Type	Good Standing
Tax Compliance Status	Compliant
Tax Compliance Status Description	The taxpayer is registered for tax and is currently compliant in respect of filing and payment responsibilities.

Should you have any queries please call the SARS Contact Centre on 0800 00 SARS (7277). Remember to have your taxpayer reference number at hand when you call to enable us to assist you promptly.

Sincerely

ISSUED ON BEHALF OF THE SOUTH AFRICAN REVENUE SERVICE

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 Page: 01/01
 Version: 1.0